

AMENDMENT AND RESPONSE TO FINAL OFFICE ACTION
U.S. Serial No. 10/626,133

REMARKS

Assignee and the undersigned attorney thank Examiner Negron for his review of this patent application and the indication that claims 22-24 include allowable subject matter. Claims 1-9 and 21-25 were previously pending. Claims 1-9, 21, 22, 24, and 25 are amended above, and new claims 26-30 are added. Assignee respectfully requests reconsideration of pending claims 1-9 and 21-25 and consideration of new claims 26-30.

Claim Objections

The Action objected to claims 22-24 as being dependent upon a rejected base claim, but indicated that claims 22-24 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 22 is amended above to put it in independent form, and Assignee submits that claim 22 should now be allowed. Claims 23 and 24 depend from and thereby include the limitations of claim 22, and therefore claims 23 and 24 should also be allowed for at least such dependency. Likewise, new claims 26 and 27 depend from and thereby include the limitations of claim 22, and therefore claims 26 and 27 should also be allowed for at least such dependency. Accordingly, Assignee requests allowance of claims 22-27.

Claim Rejections Under §§ 102(b) and 103

The Action rejected claims 1, 3-6, and 25 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,019,477 to *Wegrzyn et al.* ("Wegrzyn"). The Action rejected claims 2 and

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21 under 35 U.S.C. § 103 as unpatentable over *Wegrzyn*. The Action rejected claim 7 under 35 U.S.C. § 103 as unpatentable over *Wegrzyn* in view of U.S. Patent No. 3,302,918 to *Cohen* (“*Cohen*”). The Action rejected claims 8 and 9 under 35 U.S.C. § 103 as unpatentable over *Wegrzyn* in view of U.S. Patent No. 6,129,440 to *Reynolds* (“*Reynolds*”).

Claims 1-9, 21, and 28-30

Claim 1

Amended claim 1 recites:

1. An apparatus comprising a housing for an emergency unit luminaire, the housing comprising a concavity integrally formed in an outer surface of the housing, wherein the concavity is configured to interchangeably receive a movable optical assembly and a fixed optical assembly.

Wegrzyn does not teach each and every element of amended claim 1.

Wegrzyn does not teach a concavity that is integrally-formed in an outer surface of the housing. As the Examiner acknowledged on page 17 of the Action, “mounting member 90 is attached to the housing by means of a bracket 80/tab94 combination and a screw 98 (Figure 12).” Additionally, there is no concavity or other feature of the housing and lighting head of *Wegrzyn* that is configured for interchangeable mounting of movable and fixed optical assemblies. There is no teaching or suggestion anywhere in *Wegrzyn* to use a fixed optical assembly with the disclosed housing. In fact, the entire specification of *Wegrzyn* focuses on mechanical features necessary for the implementation of a movable optical assembly.

That circular openings 44 of *Wegrzyn* face directly forward from the housing and are

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not angled downward teaches away from any part of the *Wegrzyn* housing being configured to receive a fixed optical assembly. Any housing for emergency lighting that is to be used with a fixed optical assembly must be configured such that the fixed optical assembly is angled downward toward the floor when installed. Otherwise, the light from the lamp of the optical assembly simply goes straight out into space, resulting in poor optical performance and not lighting the floor as desired in situations where emergency lighting is necessary.

For these reasons, the Examiner should withdraw the rejection of amended claim 1 as anticipated by *Wegrzyn*, and claim 1 should be allowed.

Claims 2-9, 21, and 28-30

Inasmuch as claims 2-9, 21, and 28-30 depend from and thereby include the limitations of claim 1, claims 2-9, 21, and 28-30 should also be allowed for at least such dependencies.

Claim 6

The Action rejected claim 6 under 35 U.S.C. § 102 as anticipated by *Wegrzyn*. Claim 6 recites:

The apparatus of claim 4, wherein:

the front portion includes sloped projections extending from an interior surface of the front portion;

the back portion includes receiving projections extending from an interior surface of the back portion; and

surfaces of the sloped projections bias against surfaces of the receiving projections upon engagement of the front portion and the back portion to transfer weight associated with the front portion and the operational components to a structure of a building to which the back portion is mounted.

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The Examiner asserts that *Wegrzyn* teaches each and every element recited in claim 6. However, *Wegrzyn* fails to teach or suggest a front portion of the housing including “sloped projections extending from an interior surface of the front portion,” as recited in claim 6.

Fig. 8, referred to by the Examiner, and the accompanying text of col. 2 that describes the engagement of structure of the front and back portions of the *Wegrzyn* housing, demonstrate that flanges 24a,b and latch members 26a,b of back plate 20 snap into openings/slots 22a,b and 28a,b of the sidewalls of the housing. There are simply no sloped projections extending from an interior surface of the front portion of the housing, either shown in Fig. 8 or described in the specification, that engage any projections of the back portion, as recited in claim 6. The Examiner’s response to Assignee’s previous arguments regarding claim 6 fails to address this. Moreover, because there are no engaging projections, there is no transfer of weight as recited in claim 6, nor is such transfer inherent in *Wegrzyn* as the Examiner asserts.

For these additional reasons, the Examiner should withdraw the rejection of claim 6 as anticipated by *Wegrzyn*, and claim 6 should be allowed.

Claims 28-30

New claims 28-30 each depend from claim 1 and recite:

28. The apparatus of claim 1, further comprising first and second openings along an outer periphery of the concavity, wherein the first opening is positioned generally opposite the second opening and the first and second

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openings are configured for receiving at least a portion of a fixed optical assembly by snap fit.

29. The apparatus of claim 1, wherein the concavity is shaped such that a lens of a fixed optical assembly mates with the shape of the concavity when the fixed optical assembly is installed therein.

30. The apparatus of claim 1, wherein the concavity forms a generally semi-spherical surface that mates with a generally spherical movable optical assembly when mounted in the concavity and that mates with a fixed optical assembly when mounted in the concavity such that the fixed optical assembly does not protrude from the generally elliptical shape of a front portion of the housing.

Neither *Wegrzyn* nor any of the other cited art teaches or suggests the first and second openings positioned and configured in an integrally-formed concavity as recited in claim 28, an integrally-formed concavity shaped as recited in claim 29, or an integrally-formed concavity configured as recited in claim 30. No new matter has been added in these claims as support can be found in Figs. 2-4 and 12 and pages 8-9 and 17-18 of the specification. For these additional reasons, claims 28-30 should be allowed.

Claim 25

The Action indicated that claim 25 was anticipated by *Wegrzyn*. Amended claim 25 recites:

25. An apparatus comprising a housing for an emergency unit luminaire comprising a concavity integrally formed in an outer surface of the housing and configured for alternative mounting of movable and fixed optical assemblies, wherein the concavity comprises a plurality of openings for mounting fixed and movable optical assemblies and the concavity is shaped such that a fixed optical assembly does not protrude from a general front

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profile of the housing when the fixed optical assembly is installed in the housing.

For reasons similar to those described above with respect to claim 1, claim 25 should also be allowed. *Wegrzyn* does not teach or suggest a housing with an integrally-formed concavity in an outer surface of the housing, where the concavity is configured for alternative mounting of movable and fixed optical assemblies.

Moreover, *Wegrzyn* does not teach or suggest a plurality of openings in the concavity, nor would it be obvious to utilize multiple openings in view of *Wegrzyn*. The Examiner is using nothing more than impermissible hindsight in suggesting that one skilled in the art would read *Wegrzyn* and configure a concavity as recited in claim 25. For example, as seen clearly in Figs. 2 and 7 of *Wegrzyn*, the movable optical assembly installed in the housing protrudes from the general elliptical shape of the front of the housing and nothing in the *Wegrzyn* housing is configured such that a fixed optical assembly installed therein would not also protrude. No new matter has been added in claim 25 as support for the additional limitations can be found in Figs. 2-4 and 12 and pages 8-9 and 17-18 of the specification.

For the above reasons, the Examiner should withdraw the rejection of amended claim 25 as anticipated by *Wegrzyn*, and claim 25 should be allowed.

The foregoing is submitted as a full and complete response to the Final Office Action mailed January 17, 2006. Assignee submits that claims 1-9 and 21-30 are allowable for at least the reasons set forth above, and allowance of these claims is respectfully requested. The

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preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability. If the Examiner believes there are any issues that can be resolved via a telephone conference, or there are any informalities that can be corrected by an Examiner's amendment, please call Geoffrey Gavin at (404) 815-6046.

The undersigned attorney believes no fees are due for this submission; however, the Commissioner is authorized to debit deposit account no. 11-0855 to the extent necessary if fees are due.

Respectfully submitted,



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